

1  
2  
3  
4  
5 UNITED STATES DISTRICT COURT  
6 DISTRICT OF NEVADA  
7

8 FEDERAL TRADE COMMISSION,

9 Plaintiff,

10 vs.

11 REV MOUNTAIN, LLC, *et al.*,

12 Defendants.  
13

Case No. 2:17-cv-02000-APG-GWF

**ORDER**

14 This matter is before the Court on Defendants Revguard LLC, Revlive!, LLC, and  
15 Roadrunner B2C LLC's Motion for Leave to File Exhibits Under Seal (ECF No. 41), filed on  
16 August 18, 2017. Plaintiff filed its Opposition (ECF No. 51) on August 25, 2017. The Court  
17 temporarily granted Defendants' motion on August 28, 2017 to allow the District Judge to examine  
18 the exhibits in preparation for the motion for preliminary injunction hearing. *See* ECF No. 52.

19 Defendants request leave to file exhibits attached to their Opposition to Plaintiff's motion  
20 for preliminary injunction under seal. Defendants represent that the documents contained in the  
21 exhibits are tax returns, financial information, customer information, and accounting records and  
22 that Plaintiff does not oppose filing the tax records under seal. Plaintiff does not oppose  
23 Defendants' request to file the tax records under seal, but argues that Defendants did not provide  
24 sufficient basis to seal the following: (1) individual and corporate bank statements summarizing  
25 activity for the month of July or August 2017, Exs. GG, HH, JJ, KK, LL, and MM; (2) powerpoint  
26 presentations containing a broad overview of the Rev Entities' business, Exs. J, M, and G; (3)  
27 undated purported lists of customers, Exs. R, S, and T; and (4) six months of payroll records for  
28 RevGuard, RevLive, and RevGo, Exs. U, X, and AA.

1 The Ninth Circuit comprehensively examined the presumption of public access to judicial  
2 files and records in *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006).  
3 There, the court recognized that different interests are at stake in preserving the secrecy of materials  
4 produced during discovery and materials attached to dispositive motions. The *Kamakana* court held  
5 that a “good cause” showing is sufficient to seal documents produced during discovery. *Id.* at  
6 1180. However, the *Kamakana* decision also held that a showing of “compelling reasons” is needed  
7 to support the secrecy of documents attached to dispositive motions. A showing of “good cause”  
8 does not, without more, satisfy the “compelling reasons” test required to maintain the secrecy of  
9 documents attached to dispositive motions. *Id.*

10 *Kamakana* recognized that “compelling reasons” sufficient to outweigh the public’s interests  
11 in disclosure and justify sealing records exist when court records may be used to gratify private  
12 spite, permit public scandal, circulate libelous statements, or release trade secrets. *Id.* at 1179  
13 (internal quotations omitted). However, “[t]he mere fact that the production of records may lead to  
14 a litigant’s embarrassment, incrimination, or exposure to further litigation will not, without more,  
15 compel the court to seal its records.” *Id.*, citing, *Foltz v. State Farm Mutual Auto Insurance*  
16 *Company*, 331 F.3d 1122, 1136 (9th Cir. 1995). To justify sealing documents attached to  
17 dispositive motions, a party is required to present articulable facts identifying the interests favoring  
18 continuing secrecy *and* show that these specific interests overcome the presumption of public access  
19 by outweighing the public’s interests in understanding the judicial process. *Id.* at 1181 (internal  
20 citations and quotations omitted).

21 The documents contained in the exhibits appear to be relevant. The Court grants  
22 Defendants’ request to file the tax returns under seal. Sufficient compelling reasons, however, have  
23 not been provided to show why the remaining documents should be filed under seal. Defendants  
24 shall redact personal identifying information from the remaining exhibits and file it unsealed.

25 Accordingly,

26 ...

27 ...

28 ...

**IT IS HEREBY ORDERED** that Defendants Revguard LLC, Revlive!, LLC, and Roadrunner B2C LLC's Motion for Leave to File Exhibits Under Seal (ECF No. 41) is **granted**, in part, and **denied**, in part, as follows:

1. Defendants shall redact personal information from Exhibits GG, HH, JJ, KK, LL, MM, J, M, G, R, S, T, U, X, AA and file them unsealed.
2. Exhibits V and Y containing tax returns may be filed under seal.

DATED this 13th day of September, 2017.

GEORGE FOLEY, JR.  
United States Magistrate Judge